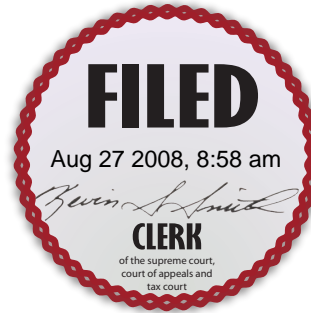


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

KELLY N. BRYAN
Public Defender
Muncie, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

JOSEPH ROBERT DELAMATER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JONATHAN L. McBRIDE,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 18A02-0802-CR-0176

APPEAL FROM THE DELAWARE CIRCUIT COURT

The Honorable Marianne Vorhees, Judge

Cause Nos. 18C01-0703-FC-11, 18C01-0703-FC-12, 18C01-0703-FC-13 & 18C01-0703-FC-14

August 27, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Jonathan L. McBride (“McBride”) pleaded guilty in Delaware Circuit Court to four Class C felony burglary charges. He was sentenced to serve four consecutive five-year terms. McBride appeals and raises the issue of whether trial court erred when it determined that his four burglary convictions did not constitute a single episode of criminal conduct.

We affirm.

Facts and Procedural History

While in a forensic diversion program in Delaware County for four Class C felony burglary offenses, McBride lost his job as a stable hand. On March 14, 2007, McBride burglarized Jr. Tropical Tan. On March 15, 2007, he burglarized Hi-Way 3 Hardware. On March 17, 2007, he burglarized G&M Pet and Garden Center. On March 19, 2007, he burglarized Sugarbush Apartments. On an afternoon prior to the burglaries, McBride had driven around and selected these businesses because they had no alarm systems.

McBride was charged with Class C felony burglary, Class D felony theft, and with being a habitual offender under four different cause numbers for each of the four burglaries. Under a single plea agreement, McBride pleaded guilty to one Class C felony burglary under each cause number for a total of four Class C felony burglaries. In return, the State dismissed all other charges and enhancements and agreed to a sentencing cap of twenty-five years. On February 11, 2008, the trial court sentenced McBride to five years under each cause number to be served consecutively for an aggregate sentence of twenty years executed. McBride appeals.

Discussion and Decision

McBride argues that the trial court erred when it determined that his four burglary convictions did not constitute a single episode of criminal conduct. Specifically, McBride argues that the four sentences should not be consecutive because the burglaries consisted of a comprehensive plan that began when he determined which businesses to burglarize.

The decision to impose consecutive sentences lies within the sound discretion of the trial court. Echols v. State, 722 N.E.2d 805, 808 (Ind. 2000). However, if the convictions constitute an “episode of criminal conduct,” the total term of imprisonment “shall not exceed the advisory sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.” Id. An “episode of criminal conduct” means “offenses or a connected series of offenses that are closely related in time, place, and circumstance.” Ind.Code § 35-50-1-2(b). “The singleness of a criminal episode should be based on whether the alleged conduct was so closely related in time, place, and circumstances that a complete account of one charge cannot be related without referring to details of the other charge.” See Tedlock v. State, 656 N.E.2d 273, 276 (Ind. Ct. App. 1995).

McBride argues that the motivations behind the commission and the planning of the crimes make the crimes a single episode of criminal conduct. However, the crimes were not closely connected in terms of time, place, and circumstance. McBride burglarized four different businesses over the course of six days. The timing of the burglaries was neither simultaneous nor contemporaneous, and it is the timing of the

offenses that dictates whether the offenses were or were not single episodes of criminal conduct. Reed v. State, 856 N.E.2d 1189, 1201 (Ind. 2006). See Lockhart v. State, 671 N.E.2d 893 (Ind. Ct. App. 1996) (finding multiple episodes for four counts of child molesting that occurred against the same victim but on separate occasions over a three month period); Reynolds v. State, 657 N.E.2d 438 (Ind. Ct. App. 1995) (holding three counts of burglary were multiple episodes where defendant burglarized three different homes in one day). Compare Ballard v. State, 715 N.E.2d 1276 (Ind. Ct. App. 1999) (a single episode found when the defendant's batteries were against two people in the apartment he broke into and the crimes occurred within approximately a half an hour at the same location.); Jennings v. State, 687 N.E.2d 621 (Ind. Ct. App. 1997) (holding three round trips between two cities made to the same hardware store, the first two trips made to steal and the third trip made to commit arson to conceal the burglaries, was a single episode); Trei v. State, 658 N.E.2d 131, (Ind. Ct. App. 1995) (finding a single episode for one count of sexual misconduct with a minor and two counts of criminal confinement where offenses committed "during a short period of time at one location, were integral parts of one continuous criminal design and plan, [and] were motivated by the same criminal intent").

Under the facts and circumstances before us, we conclude that each burglary constituted a distinct episode of criminal conduct. The trial court did not abuse its discretion when it determined that the burglaries did not constitute a single episode of criminal conduct and sentenced him to four consecutive five-year terms.

Affirmed.

BAKER, C.J., and BROWN, J., concur.